



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 27 JUNE 2019
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

Councillor F Dugdale (Convener)
Councillor L Bruce
Councillor J Goodfellow
Councillor J Henderson
Councillor Innes
Councillor J McMillan

Clerk of the Licensing Board:

Mr C Grilli, Service Manager, Legal and Procurement (Depute Clerk)

Attending:

Mr R Fruzynski, Licensing Standards Officer
Ms C Sheil, Licensing Officer
Ms M Winter, Licensing Officer
PC H Bowsher, Police Scotland

Present:

Ms E Oldcorn, NHS Lothian

Committee Clerk:

Ms J Totney, Team Manager – Democratic and Licensing

Apologies:

None

Declarations of Interest:

Councillor McMillan declared an interest in item 3d as he has attended various meetings where the applicant has been present and is also a residential neighbour of the premises.

1 MINUTES FOR APPROVAL

The minutes of the East Lothian Licensing Board meeting of 23 May 2019 were approved as a true record.

2 GRANT OF PROVISIONAL LICENCE

(2a) Hector's 32a High Street, Dunbar

Mr A Macdonald, Macdonald Licensing, was present to represent the applicant. Mr N Adams, Director of the applicant company, was also present.

Mr Macdonald talked through the proposals for a new restaurant and provided background information about the applicant. He acknowledged the representation from Police Scotland and advised that the operating plan had been amended accordingly. He noted that no objectors were present and commented that the objections relate to the opening hours being applied for (which are standard Board policy hours) and not the actual opening of a restaurant; adding that there would be prominent notices about respecting neighbours and that Mr Adams would be actively managing the front of house.

PC Bowsher stated that the operating plan discrepancies had been rectified and that she had no further comments.

The Licensing Standards Officer (LSO) confirmed that the opening hours applied for are within Board policy. He complimented the applicant on the high quality of the supplementary information that had been submitted and supported the application.

Mr Adams answered questions from Board members about gambling; access for children in relation to gaming, fundraising events and meals; the consistency of the operating plan; and assurances that had been given to objectors regarding noise issues. In particular, he stressed that staff would phone for taxis and that patrons would not be waiting outside for taxis to arrive.

Councillor Bruce commented on the excellent business profile which is ideal for Dunbar and supported the application. Councillors Henderson and McMillan echoed these comments and added their support.

Decision

East Lothian Licensing Board agreed to grant the Provisional Premises Licence.

(2b) Thomson's of Tranent, 22b Winton Place, Tranent

The applicant and/or a representative were not present.

The Clerk stated that the item would be postponed to the end of the meeting to allow further time for them to appear.

Following the conclusion of item 4, the Board agreed to deal with this item of business in the absence of the applicant and/or their representative.

PC Bowsher referred to the Police Scotland letter dated 27 May 2019. She explained the concerns about the size and location of the outside area, and suggested a terminal hour of 20.00 hrs. She noted that the applicant will install CCTV but indicated that

Police Scotland would be seeking a licence condition that CCTV be installed inside and outside the premises immediately.

The LSO provided information on the newly reconstructed premises and highlighted the number of off-sales premises within 800 metres of Thomson's of Tranent. He shared Police Scotland's concerns about the large outside area and stressed the need for conditions which included delineation, footpath access, the requirement for a fully seated area, the use of plastic glasses only, no music to be played outside, the terminal hour, the need to remove all furniture at the terminal hour, and the requirement to keep the outside area clear of rubbish. He suggested an additional condition enabling a Council Officer or Police Scotland to temporarily suspend the external area for reasons of public safety. The LSO supported the application and remarked that he would have welcomed a declaration of the capacity of the internal alcohol display section for off-sales.

The Licensing Officer advised that there were no comments from NHS Lothian.

Board members discussed the details provided in the application and commented about the vagueness of where food would be served; the fact that Civic Square, Tranent has a different dynamic during the day and at night, with the potential for patrons and local youth groups to clash; and the lack of information on the layout plan regarding the alcohol display area for off-sales.

Councillor Innes commented that the refurbished premises were a great addition to Tranent and expressed a desire to move the application forward. As there are still matters to be clarified regarding the outside area, he wondered if it would be possible to grant the licence for the internal area and ask the applicant to reapply and attend the Board in order to determine the licence for the outside area.

PC Bowsher advised that the premises are currently operating on Occasional Licences.

The LSO advised that the sale of alcohol is predominantly off-sales at the moment and informed members that the premises could continue to operate under Occasional Licences until the Board determines this application, adding that Occasional Licences are in place until 5 September 2019.

Decision

East Lothian Licensing Board agreed to continue this item to the Board meeting in August 2019 and that the applicant be requested to attend in person, with or without professional representation.

3 MAJOR VARIATION OF PREMISES LICENCE

3a) Lodge St John Kilwinning No.57, Masonic Hall, 71 Hardgate, Haddington

Mr C Colquhoun, Lodge Master and Chairman was present to represent the applicant. Mr D McKay, Past Master and Assistant Treasurer, was also present.

The application seeks to change to an open licence, include off-sales 10am to 10pm daily, vary Sunday opening hours from 12.30pm to 11am, include receptions, club meetings, and music, live performances may be held outwith core hours, and televised sport and film evenings.

Mr Colquhoun outlined the reasons for applying to change the premises from a club licence to an open licence, highlighting that this would avoid the need to apply for occasional licences for the 12-15 functions that are held each year. He referred to the

comments that had been received from NHS Lothian regarding the opening hours and explained that the current licence already has a terminal hour of midnight on Mondays to Wednesdays. He stressed the procedures that are in place to avoid noise nuisance and potential complaints about smoking and empty glasses being left outside the premises, including the fact that live band events are fully ticketed. Mr Colquhoun confirmed that the Lodge would be applying to join Pubwatch, which had been a recommendation from Police Scotland and stated that the comments from the Police about installing CCTV would dependant on affordability and that the committee would be consulted on this matter. He pointed out that only selective functions are allowed, which exclude 18th birthday parties, although occasional 21st parties would be permitted.

PC Bowsher referred to the Police Scotland letter dated 22 May 2019 and fully supported the application. She appreciated the situation regarding CCTV and remarked that this could be added as a condition in future, if required.

The LSO referred to his report and advised that no complaints or issues had been raised with the LSO or Police Scotland regarding the operation of the premises. He supported the application.

Ms E Oldcorn, NHS Lothian, acknowledged that the existing licensing hours for the Lodge are historic, but stated that it would be preferable if these were now changed to the Board's current licensing hours. She referred to Mr Colquhoun's statement about the midnight terminal hour only being used for Lodge meetings and suggested that this be included as a condition on the licence. In response to her comments about off-sales, Mr Colquhoun advised that this would be very infrequent, say if a driver wanted to purchase alcohol for home consumption.

In response to a question from Councillor Bruce, Mr Colquhoun advised he would be agreeable to a condition that the terminal hour of midnight would only be for Lodge members attending a formal meeting. In response to a question from Councillor Henderson, Mr Adams replied that he would be happy with a condition that there would be no 18th birthday parties.

The Board discussed the issue of alleged complaints and were of the view these were not corroborated. The LSO suggested that when there are live bands, the committee take ownership and carry out sound checks outside the premises and at neighbouring premises.

The Board adjourned in private to debate the matter. On reconvening, Councillor Dugdale, Licensing Board Convener, delivered the decision.

Decision

East Lothian Licensing Board agreed to grant the major licence variation subject to the following condition:

- Eighteenth (18th) and Twenty-first (21st) birthday parties are not permitted at the premises.

Sederunt: *Ms Oldcorn left the meeting.*

3b) Prestonpans Labour Party Social Club, Kirk Street, Prestonpans

No one was present to represent the applicant.

The application seeks to add a beer garden to the south of the main entrance.

The LSO advised that he had made the club aware that it would be beneficial for someone to attend. He added that the premises are well run with no issues. Turning to the outside drinking area, he commented that this is a significant area with a delineated boundary and described the location. He supported the application.

PC Bowsher referred to the Police Scotland letter dated 27 May 2019, and in particular the recommended terminal hour of 22.00 hours for the outside area.

Board members debated the exact details of the outside drinking area, including CCTV and the terminal hour; the LSO answered questions in this regard. The LSO suggested that a condition be attached to the licence requiring all non-fixed furniture to be removed from the beer garden at the terminal hour.

Decision

East Lothian Licensing Board agreed to grant the major licence variation subject to the following conditions:

- The outside drinking area is not be used after 22.00 hrs, due to the close proximity of residential properties
- All non-fixed furnishings are to be removed when the beer garden is not being used.

3c) The Seaglass Inn, (The Wemyss House Hotel), Links Road, Port Seton

Ms J Hood, Licensing Associate, was present to represent the applicant. Ms C O'Brien, staff member, and Mr J Williams, Heineken Punch, were also present.

The application seeks to change layout and location of kitchen, remove bar in function area and replace with seating, install fixed booth seating in place of the existing kitchen, relocate male toilets and bar servery, install fixed seating the in existing servery area, enhance the external drinking area, change the premises name to The Seaglass Inn, permit conferences, receptions, club meetings, recorded music, live performances, indoor/outdoor sports, and outside drinking facilities outwith core hours (no alcohol available outwith core hours).

Ms Hood provided detailed information about the premises, including the future business plans. Her presentation included details of the food offerings, security measures and outside drinking area. She indicated that she did not share the LSO's view that all patrons using the outside area must always be seated; stating that this would be unnecessarily restrictive.

PC Bowsher confirmed that the concerns raised by police Scotland in their letter of 27 May 2019 had been addressed; she supported the application

The LSO referred to his report dated 4 May 2019 and asked the Board to consider the requirements for the outside area due to the proximity to residential neighbours and complaints about noise that had been received in the past.

Councillor Henderson questioned the premises capacity of six hundred and sixty (660) persons. Ms Hood explained the background as to how this had been historically calculated and stated that there was no requirement for her client to amend this, although in practice the occupancy numbers would be restricted to a comfortable level for the running of the premises. The Clerk confirmed the figure to be accurate for the licence and the LSO advised that the figure has currently been approved by Building Standards.

Councillor McMillan supported the reasons why the LSO had recommended a fully seated outside area and invited Ms Hood to reflect on this part of the application. Ms Hood referenced potential issues for smokers who use this area if there is no free seating; stressed that the area would be fully monitored by premises staff; advised that the garden wall has been raised to help reduce noise; and commented that should there be complaints, her client would further consider the LSO's suggestion for an all seated outside area.

Board members discussed the outside area including smoking areas and planning permission. Councillor Innes commented positively on the investment in the premises and supported the application; however, he did not support the suggestion of a fully seated outside area.

Councillors Bruce and McMillan added their support to the application.

The Clerk sought confirmation that the proposed conditions which had been proposed by Police Scotland, the LSO, and East Lothian Council Planning had been accepted. Ms Hood advised that these had all been accepted by her client.

Decision

East Lothian Licensing Board agreed to grant the major licence variation, subject to the following conditions:

- No customers shall be allowed to use the rear external area of the premises after 22.00 hours, except for customers permitted to temporarily leave the premises to smoke in the designated smoking area and no drinks shall be taken into the rear external area after this time.
- Young persons will be allowed entry until 22.00 hours daily and if attending a pre-arranged private function or consuming a meal until the end of core hours for on sales.
- The premises will join and be an active member of any Pubwatch scheme that operates in the area.
- CCTV to be installed both internally and externally which will cover the rear external area and outside the front of the premises. CCTV shall be maintained in good working order.
- Staff will regularly monitor customers in the beer garden.
- No entertainment or amplified music shall be played or be intrusively audible outside the premises.

3d) Tyneside Tavern, 10 Poldrate, Haddington

Sederunt: *Councillor McMillan left the meeting.*

Mr P Kinnock, applicant, was present.

The application seeks to introduce a beer garden Monday to Sunday, 11am to 7.30pm, and amend off-sales and on-sales on a Sunday from 12.30pm to 11am.

Mr Kinnock advised that he obtained planning permission for the beer garden which was currently operating on Occasional Licences with no complaints. He provided background information about the premises, the decision to open a beer garden, and the communication with neighbouring residents.

PC Bowsher referred to the Police Scotland letter dated 27 May 2019 and pointed out that the applicant had voluntarily suggested a terminal hour of 19.30 hrs for the beer

garden, and that Police Scotland asked that CCTV be considered for the outside area. She supported the application. Mr Kinnoch stated that external CCTV would be added when the internal CCTV is upgraded.

The LSO referred to his report dated 23 May 2019, drawing attention to a public object and stating that he welcomed the voluntary conditions offered by the applicant. He suggested that the voluntary terminal hours of 19.30 hrs be made a condition of the licence.

Board members asked questions about monitoring of the outside area, table service, location of seating, noise complaints, and smoking areas, which Mr Kinnoch answered to their satisfaction.

Councillor Innes remarked that Mr Kinnoch was a respected, experienced licensee, and he supported the application subject to conditions.

Councillor Henderson expressed her support for the application.

The Clerk advised that CCTV for the outside area would be added as a condition to the licence.

Decision

East Lothian Licensing Board agreed to grant the major premises licence variation subject to the following conditions:

- The beer garden should not be used after 19.30 hours.
- The premises join and be an active member of the Pubwatch scheme that operates within Haddington.
- CCTV to be installed to monitor the beer garden and to be maintained in good working order.

4 STATEMENT OF EXTENSION OF LICENSED HOURS – SCOTTISH GOLF CHAMPIONSHIP 2019

Councillor Dugdale, Chair of East Lothian Licensing Board, made the following statement on behalf of the Board:

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined that it is appropriate to grant a general extension of licensed hours for the Scottish Open Golf Championship 2019. This extension will apply from Monday 8 to Sunday 14 July 2019 inclusive and will allow an extension of the terminal hour for the sale of alcohol during the period until 1am. This extension will only apply to on-sales and not to off-sales of alcohol. There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than Monday 1 July 2019. There is no need for licensees to apply for the general extension to 1am. On sales premises can utilise these hours to the extent they consider appropriate.

Councillor Goodfellow commented that there is no reference to the geographical area that the statement applies to. Board members discussed this point and agreed a slight change to wording, as reflected in the decision.

Decision

East Lothian Licensing Board agreed the statement on occasional extended hours for the Golf Championship, subject to the first sentence reading ... the East Lothian Licensing Board ...

Signed

Councillor Fiona Dugdale
Convener of East Lothian Licensing Board